THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.16113 of 1998
Date: 14-06-2007

Between:
N.J.Reddy

Petitioner

And

A.P.State Road Transport Corporation,
rep. by it's Managing Director, Mishirabad,
Hyderabad and another

Respondents

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

W.P.No.16113 of 1998

ORDER:

1. The writ petitioner asserts that he was working in the State owned Andhra Pradesh State Road Transport Corporation (in short 'the APSRTC') as Conductor ever since 1983. But, however, on the ground that he was absent from duty unauthorisedly between 22nd May,1994 and 17th June,1994, the Corporation had proceeded against him as a measure of discipline by drawing a charge sheet. Not satisfied with the explanation offered by the writ petitioner that due to a set back in his health he had received treatment at one of the notified hospitals by the APSRTC, thus he could not attend to his duties, an enquiry officer was appointed who submitted his report on 26-06-1994 holding the petitioner guilty of the charge levelled against him. Accepting the findings recorded by the enquiry officer, a show cause notice dated 14-07-1994 has been issued to the writ petitioner proposing to impose on him a punishment of removal from the service. The writ petitioner asserts that he had replied to the show cause notice on 14th August, 1994 rebutting the graveman of the charges and challenging the findings recorded by the enquiry officer.

2. The corporation taking a benevolent look at it had not finalized the disciplinary proceedings and instead kept the matter pending. Perhaps emboldened by the compassion extended by the corporation, it is alleged, that the writ petitioner had repeated the misconduct of staying away from duty unauthorisedly for 85 days during the year 1996-97 and for 111 days during the year 1997-98. Enraged by the repetition of misconduct of unauthorized absence on the part of the writ petitioner, the Depot Manager, Ravulapalem, APSRTC passed orders on 25-05-1998 imposing upon the writ petitioner the punishment of removal from the service. It is this order of removal from service dated 25-05-1998 which is challenged in this writ petition.

3. Heard Smt.B.G.Uma Devi, the learned standing counsel for the APSRTC.

4. On the face of it, the impugned order is unsustainable. As per Regulation 8 (viii) of the APSRTC Employees Classification, Control and Appeal Regulations, (in short, henceforth referred to as "Regulations) removal from service is one of the punishments that can be imposed for good and sufficient reasons which is a major punishment. Regulation No.12, of the aforesaid Regulations spells out in detail as to the procedure that should be adopted before imposition of a major punishment. As the impugned order reveals the writ petitioner has been hauled up for his unauthorized absence for the period from 22-05-1994 to 17-06-1994 and he had not been chargesheeted for his alleged absence of 85 days during the year 1996-97 and for 111 days during the year 1997-98, which was made as the substantial basis for imposition of the punishment of removal in the impugned order. These two different spells of unauthorized absence, noted in the

impugned order were not forming part of the charge sheet drawn against the writ petitioner and they could not have, in fact, formed part of the charge sheet, for, the charge sheet was drawn in the year 1994. Therefore, the impugned order imposing the punishment of removal, for, the two spells of alleged unauthorized absence between 1996-97 and 1997-98 is a factor alien to the charge sheet and consequently without making this alleged misconduct on the part of the writ petitioner a part of the disciplinary control exercise, the order of removal has been passed. It is a settled principle of law that no person can be penalized without providing him a fair and reasonable opportunity to defend himself. This is the philosophy that is enunciated in Regulation 12 of Regulations. Undoubtedly, the writ petitioner had not been put on any such procedural safeguard prior to the impugned order being passed.

5. This apart, the impugned order does not say as to whether the Depot Manager, Ravulapalem had accepted the findings recorded by the enquiry officer and had come to the conclusion that the charge framed against the writ petitioner on 18-06-1994 is held established or not. The impugned order also does not advert to the plea taken by the writ petitioner that during the period of his absence from 22-05-1994 to 17-06-1994 he was receiving treatment at one of the authorized and notified hospitals and consequently he is incapacitated due to his ill-health to be on duty. There was no whisper of a reference to this aspect of the matter at all. Thus looking at it from any angle the impugned order of removal passed by the Depot Manager against the writ petitioner on 25-05-1998 cannot be sustained.

6. In fact, realizing the unsustainability of the impugned order, this court was pleased to pass an order on 1st September,1998 granting interim suspension as prayed for. The corporation made an unsuccessful attempt to get this order vacated by taking out application vide WVMP No 1750 of 2001 which came to be considered by this court on 09-04-2002, declining to vacate the interim suspension granted on 01-09-1998. Therefore, it is clear that the writ petitioner must have been reinstated into the service and must have been rendering services to the corporation pursuant to the interim orders granted by this court on 01-09-1998. I therefore, set-aside the present impugned order dated 25-05-1998, but however, I accord liberty to the respondents to finalise the disciplinary proceedings which were initiated against the writ petitioner earlier and which were kept pending. I hope and trust that the respondents would keep all relevant factors in mind while finalizing the disciplinary proceedings including factors relating to the appropriate punishment which is liable to be imposed for proven misconduct on the part of the writ petitioner.

7. With this, the writ petition is allowed, but however, without costs.

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NOOTY RAMAMOHANA RAO,J

14-06-2007

Stp